

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Civil Action No. 05-10926-FDS

ADVANCED CABLE TIES, INC.,

Plaintiff,

V.

**BAY STATE CABLE TIES, LLC and
STEPHEN DALTON,**

Defendants.

**UPDATED JOINT STATEMENT
PURSUANT TO LOCAL RULE
16.1(D)**

Plaintiff, Advanced Cable Ties, Inc. (“ACT”), and Defendants, Bay State Cable Ties, LLC (“Bay State”) and Stephen Dalton (“Dalton”), respectfully submit this Joint Statement pursuant to Local Rule 16.1(D) in preparation for the Court’s Scheduling Conference set for February 2, 2006.

The Complaint seeks monetary damages against Defendants based on their alleged infringement of ACT's mark entitled ADVANCEDCABLETIE.COM, which Defendants registered in August 2000. Plaintiff contends this site was used to forward Internet users to Bay State's website. ACT submits that ADVANCEDCABLETIE.COM is identical and confusing similar to ACT's marks ADVANCED CABLE TIE, ADVANCED CABLE TIES and ADVANCEDCABLETIES.COM. ACT's marks have been in use in commerce for over ten (10) years and for at least six (6) years prior to Defendants' use of the mark ADVANCEDCABLETIE.COM. Further, Defendant Dalton was a former employee of ACT before he started his own business in competition with ACT in or about 2000.

On or about January 25, 2005, ACT filed a complaint against Bay State with the World Intellectual Property Organization (“WIPO”) pursuant to the Uniform Domain Name Dispute

Resolution Policy ("UDRP"). The UDRP complaint was based on the same set of facts set forth herein and sought the transfer of the domain name to ACT. Immediately after service of the UDRP complaint upon Bay State, Bay State agreed to transfer the domain name to ACT. The domain name was transferred to ACT on March 21, 2005. Consequently, in terms of equitable relief, ACT already has possession of the disputed domain name and, further, Defendants have indicated that they would consent to an appropriately framed injunction against their use of ACT's marks, ADVANCED CABLE TIE, ADVANCED CABLE TIES and ADVANCEDCABLETIES.COM or any other variant or colorable imitation of the marks ADVANCED CABLE TIE, ADVANCED CABLE TIES and ADVANCEDCABLETIES.COM.

As a result of the foregoing, ACT believes that liability has been clearly established. ACT has conducted initial discovery focused on determining and quantifying ACT's damages resulting from Defendants' conduct. Defendants have provided answers to interrogatories and some documents in response to ACT's discovery requests. Defendants document response contains data from their web hosting company, which shows very inconsistent usage of the domain name than what ACT is now experiencing. ACT is in the process of retaining an expert to analyze the data shown in Defendants' document response. Pending the opinion and report of the expert, ACT may seek to conduct depositions of Defendants, Robert Sires and/or Defendants' web hosting company. ACT may also seek serve additional focused discovery requests and/or may seek compel further responses to several discovery requests to which Defendants objected or which ACT asserts were not answered completely. Defendants oppose additional discovery on the grounds that the "initial phase" discovery order entered by the Court on July 26, 2005 allowed ACT six months to conduct discovery and depositions of web hosting

companies, which it failed to do. Defendants had previously disclosed to ACT's counsel the names and addresses of the two website hosts responsible for the contested website.

Therefore, ACT requests six (6) months to complete discovery and makes the following proposal for the remaining deadlines and court dates in this matter:

- (a) Discovery to be completed on or before August 2, 2006;
- (b) Motions under F. R. Civ. P. 56 served and heard on or before October 2, 2006;
- (c) Final Pre-Trial Conference held on November 2, 2006

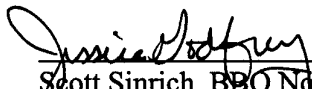
Defendants oppose any additional period of discovery and request that the matter proceed to trial.

The certifications signed by counsel and authorized representatives of each party affirming that each party and that party's counsel have conferred as to the subjects identified in Local Rules 16.1(d)(3) are being filed separately.

The parties hereby state that they have conferred on the subjects outlined in Fed. R. Civ. P. 16 and 26, and Local Rule 16.1.

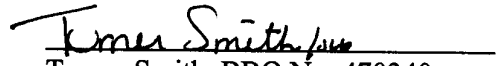
Respectfully Submitted,

ADVANCED CABLE TIES, INC.,
By its Attorney,



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